

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

<b>CARY L. JEWELL,</b>	)	
	)	
<b>PLAINTIFF,</b>	)	
	)	
<b>VS.</b>	)	<b>CIVIL ACTION NO. 08-</b>
	)	
	)	<b>JURY TRIAL DEMANDED</b>
	)	
<b>VALENTINE &amp; KEBARTAS, INC.</b>	)	<b>UNLAWFUL DEBT COLLECTION</b>
	)	<b>PRACTICES</b>
<b>DEFENDANT.</b>	)	

**COMPLAINT**

**I. INTRODUCTION**

1. Plaintiff Cary L. Jewell alleges that Defendant engaged in abusive, deceptive, and unfair acts in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (hereinafter "FDCPA"). Specifically, Defendant, by and through the actions of its employees/agents failed to provide required disclosures when leaving messages on Plaintiff's phone, and also made a contact with third parties (Plaintiff's parents) for reasons other than obtaining or correcting Plaintiff's location information. Defendant engaged in a pattern of false, deceptive and abusive behavior as a means to attempt to collect on a debt allegedly owed by Plaintiff.

**II. JURISDICTION AND VENUE**

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), and 28 U.S.C. § 1337. Venue in this District is proper in that the Defendant transacted business here and the conduct complained of occurred here.

### **III. PARTIES**

3. Plaintiff is a natural person residing in the City of St. Louis, State of Missouri.

4. Defendant Valentine & Kebartas, Inc. (hereinafter referred to as "V & K") is a Corporation with its principal place of business located at 15 Union Street, Lawrence, MA 01840, and does business in the State of Missouri.

5. Defendant is engaged in the collection of debts from consumers using the mail, facsimile transmission and telephone. Defendant regularly attempts to collect consumer debts it purchases after default and/or consumer debts alleged to be due to another. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

6. The acts of Defendant alleged hereinafter were performed by its employees acting within the scope of their actual or apparent authority.

### **IV. FACTUAL ALLEGATIONS**

7. All of the acts about which Plaintiff complains took place within the months of June 5, 2008 through July 1, 2008, and involved a series of voice messages left by Defendant's employees on the telephone message recording device of Plaintiff's personal cell phone and the residential land line of Plaintiff's parents. All of the calls were made concerning an alleged debt which Plaintiff originally had with Chase Bank USA. All of the messages have been preserved by Plaintiff on a cassette tape, and have been transcribed. Defendant also sent a dunning letter to Plaintiff dated June 5, 2008 which was received by

Plaintiff after June 12, 2008. A true and accurate copy of said dunning letter has been marked as Plaintiff's exhibit A and is attached hereto.

8. The first message was left at 4:36 p.m. central standard time on Plaintiff's cell phone on June 12, 2008, and included the following statements from V & K's employee: "Hi, this message is for Cary Jewell. My name is Mr. Allen. I have a couple of questions I need to ask you. Please return my call. My number is toll free (866) 598-2788, and my extension is 240. Today is Thursday. I'll be in the office a bit later tonight. Please try to get back to me tonight. Thank you."

9. The second message was left on Plaintiff's cell phone on June 20, 2008 at 8:22 a.m. central standard time, and it included the following statements from V & K's employee: "Hello, this message is for Cary L. Jewell of St. Louis, Missouri. My name is Mr. Allen. I've called before. I do need to ask you a couple of questions. Please return my call. My number is toll free (866) 598-2788, and my extension is 240. Thank you."

10. The third message was left on Plaintiff's cell phone June 21, 2008 at 8:28 a.m. central standard time and it included the following statements from V & K's employee: "Hello, this message is for Cary L. Jewell, St. Louis, Missouri. My name is Mr. Allen. I've called before. Basically, I need your attorney's name and phone number. Please return my call with that information. My number is (866) 598-2788, and my extension is 240. Please call me as soon as you receive this message. Thank you."

11. The fourth message was left on plaintiff's cell phone on June 26, 2008 at 3:43 p.m. central standard time and it included the following statements from V & K's employee: "Hi, Cary Jewell. This is Mr. Allen calling. This is about my third or fourth call. You haven't called me back. Basically, all I need from you is a name and a phone number. It's

completely pain free. Please call me back. My number is toll free, hassle free and pain free – (866) 598-2788, and my extension is 240. Today is Thursday. I'll be in the office till about 6:30 – 7:00 o'clock Missouri time. Please call me back before then. Thank you.”

12. The fifth message was left on plaintiff's cell phone on July 1, 2008 at 4:35 p.m. central standard time and it included the following statements from V & K's employee: “Hello. This message is for Cary L. Jewell. My name is Mr. Allen. I've called several times now. Basically, I need your attorney's name and phone number. Please return my call. My number is toll free (866) 598-2788. My extension is 240. Please leave the information on my voicemail if I am not in. Thank you. “

13. The sixth message was left on the answering machine at Plaintiff's parents' home [ (314) 962-5726] on July 1, 2008 at 3:32 p.m. central standard time and it included the following statements from V & K's employee: “This message is for Cary L. Jewell. My name is Mr. Allen. Please return my call. I need your attorney's name and phone number. My number is (866) 598-2788, extension 240. Thank you.”

14. The seventh message was left on Plaintiff's cell phone on July 10, 2008 at 2:25 p.m. central standard time and it included the following statements from V & K's employee: “Hi, Cary. How are you doing today? This is Ms. Randall. I'm trying to wrap up your account right now, but I need some additional information. If you could please call me back at (866) 598-2788, extension 375. That's (866) 598-2788, extension 375. Thank you and good luck.”

**CAUSE OF ACTION**

**VIOLATIONS OF THE FDCPA**

15. Plaintiff incorporates herein by reference each and every prior allegation and fact as though fully restated and re-alleged.

16. Defendant's actions violated the FDCPA. The violations include, but are not limited to, the following:

(a) Defendant violated 15 U.S.C. § 1692e(11) when its employees failed to identify themselves as debt collectors;

(b) Defendant violated 15 U.S.C. § 1692d(6) when its employees failed to provide meaningful disclosure of their identities and Defendant's identity. Defendant's employees failed to identify the nature of Defendant's employer's business on 7 separate occasions and failed to disclose their status as debt collectors;

(c) Defendant violated 15 U.S.C. § 1692b(1) when its employee contacted a third party for a purpose other than confirming or correcting Plaintiff's location information;

(d) Defendant's actions violated 15 U.S.C. § 1692f as they constituted unfair and unconscionable means to collect the debt.

17. As a result of the above violations of the FDCPA, the Defendant is liable to the Plaintiff for statutory damages, and costs and attorney's fees.

**WHEREFORE**, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

A. Statutory damages pursuant to 15 U.S.C. § 1692k;

B. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k;

C. For such other and further relief as may be just and proper.

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

/s/ Cary L. Jewell

**Cary L. Jewell**

Respectfully submitted,

**THE SWANEY LAW FIRM**

/s/ Robert T. Healey

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